

# Impact of New Federal Laws

*Prepared by: Hedman Partners, Calvin Hedman*

Santa Clarita Valley Chamber of Commerce  
Economic Development Committee  
Committee Chair: John Shaffery, Poole & Shaffery, LLP

Moving quickly to stimulate the economy, Congress has passed and President Obama has signed the American Recovery and Reinvestment Act of 2009 (ARRA) (H.R. 1) into law. Tax incentives targeted to individuals and businesses make up roughly one-third of the nearly \$800 billion package. Among the largest tax breaks are the new Making Work Pay credit, bonus depreciation, Code Sec. 179 expensing, extended net operating loss (NOL) carryback for small businesses, and a host of energy tax incentives.

## **Making Work Pay credit**

The Making Work Pay credit, for 2009 and for 2010 provides a maximum credit of \$400 (\$800 for married couples). The credit begins to phase-out for individuals with modified adjusted gross income above \$75,000 (\$150,000 for married couples).

## **New car deduction**

Between now and the end of 2009, eligible purchasers of new vehicles (automobiles, trucks, SUVs, and other qualified vehicles) can deduct state and local sales or excise taxes. The temporary deduction is above-the-line. Income phase-outs apply (\$125,000 for individuals; \$250,000 for married couples). Deductible sales or excise taxes cannot exceed the portion of the tax attributable to the first \$49,500 of the purchase price on any one vehicle.

## **First-time homebuyer credit**

An \$8,000 credit is available to eligible first-time homebuyers between January 1, 2009 and November 30, 2009 (the credit was \$7,500 for homes purchased on or after April 9, 2008 and before January 1, 2009). In good news for taxpayers, the ARRA removes the repayment requirement for homes purchased in 2009 after 36 months in the home. Income phase-outs continue to apply (\$75,000 for individuals; \$150,000 for married couples).

## **More individual incentives**

Additional individual tax breaks in the ARRA include:

- AMT patch for 2009;
- Suspension of federal income tax on first \$2,400 of unemployment benefits for 2009;
- Enhanced \$2,500 HOPE education credit (renamed the American Opportunity Tax Credit);
- Expanded child tax credit (\$3,000 income threshold);
- Increased EITC;
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- Increase in transit benefits that allows a tax-free fringe benefit of up to \$230/month for transit passes, starting March 1; and
- Tax-free distributions from qualified tuition plans for computers and computer technology including internet access.

## **Bonus depreciation/small business expensing**

Two business incentives from 2008 have been extended into 2009: bonus depreciation and Code Sec. 179 expensing. Fifty percent bonus depreciation on new equipment is allowed for 2009 (through 2010 for certain longer-lived and transportation property). The increased Code Sec. 179 expensing amount is \$250,000 (phase-out amount of \$800,000) beginning in 2009.

## **NOL (Net Operating Loss) Carryback**

The enhanced carryback period for NOLs allows qualified small businesses (ones which average gross receipts of \$15 million or less) to extend the maximum carryback period for 2008 NOLs to three, four or five years. Fiscal year taxpayers can apply the extended carryback either to NOLs generated in tax years beginning or ending in 2008.

## **Cancellation of indebtedness**

At the election of certain business taxpayers, income from the discharge of indebtedness in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of specified types of business debt is includible in gross income ratably over a five-tax-year period beginning in 2014.

## **S corp built-in gains**

The new law temporarily reduces the ten-year recognition period for built-in gains tax for S corps down to seven years. Specifically, for dispositions in a tax year beginning in 2009 or 2010, the new laws provides that tax will no longer be imposed on the net recognized built-in gain of an S Corp if the seventh tax year in the otherwise 10-year recognition period preceded that tax year.

## **Renewable energy**

The ARRA significantly expands many energy tax incentives to encourage the development of renewable energy (wind, biomass, solar, and others). Among the enhanced incentives are:

- Energy investment credit (removing the credit cap for qualified small wind energy property);
- Renewable electricity production credit (extended for wind and other facilities);

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- Alternative fuel pump tax credit (increased for commercial and refueling stations); and
- Plug-in electric vehicle credit (modified to encourage development).

## Quick Tax Facts American Recovery and Reinvestment Act of 2009

### Key Provisions At A Glance

Provision	In Effect	Impact
<b>General Tax Relief</b>		
Making Work Pay Credit	2009 – 2010	Provides individuals with a refundable credit equal to the lesser of 6.2% of the taxpayer's earned income or \$400 (\$800 in the case of joint filers), phased out for AGI above \$75,000 (\$150,000 in the case of joint filers).
First-Time Homebuyer Credit	1/1/09 – 11/30/09	Extended the credit for purchases before 12/1/09, increases the maximum credit amount to \$8,000 (\$4,000 for married taxpayers filing separately), and waives the repayment requirement for purchases in 2009 after the 1 <sup>st</sup> 36 months in the home.
Child Tax Credit	2009 – 2010	Provides that refundable portion of child credit is calculated to apply to 15 percent of earned income in excess of \$3,000.
Deduction for Tax on Purchase of Vehicle	2/17/2009 – 12/31/2009	Allows itemizers and non-itemizers to deduct sales and excise taxes incurred on purchase of new motor vehicle
Suspension of Tax on Unemployment Compensation	2009	Excludes up to \$2,400 of unemployment compensation from gross income
<b>Education</b>		
American Opportunity Tax Credit	2009 – 2010	Increases Hope credit to 100 percent of first \$2,000 and 25 percent of next \$2,000 for first 4 years of post-secondary education; extends it to apply to course materials; increases AGI limits; allows credit against AMT; and makes a portion refundable.
Computer Technology Treated as Higher Education Expense	2009 – 2010	Enables taxpayers to use distributions from Section 529 accounts to purchase computer technology or equipment or Internet access and services while beneficiary is enrolled at educational institution.
<b>AMT Relief</b>		

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AMT Exemptions	2009	Increases the exemption amounts for 2009 to \$70,950 for married individuals filing jointly and surviving spouses, \$46,700 for other unmarried individuals, and \$35,475 for married individuals filing separately.
Non-refundable Credits Offset AMT	2009	Allows individuals to offset non-refundable personal credits against the AMT through 2009.

## Businesses

Provision	In Effect	Impact
Bonus Depreciation	2009	Extends 50 percent first-year bonus depreciation deduction to property placed in service during 2009 (2010 for certain property having longer production periods and aircraft).
Section 179 Expensing	2009	Increases the Code Section 179 deduction to \$250,000 for 2009. Phase-out starts at \$800,000.
NOL Carryback	2008	Allows eligible small businesses to elect up to a five year carryback of a net operating loss for a tax year ending or beginning in 2008.
Estimated Tax Payments	2009	Provides that the required annual estimated tax payments of an individual with adjusted gross income of less than \$500,000, more than 50 percent of which is income from a small business, to satisfy estimated tax requirement is not greater than 90 percent of the tax liability shown on the return for the preceding taxable year.
Built-in Gains Tax	2009 - 2010	BIG tax is not imposed in tax year beginning in 2009 or 2010 if the seventh tax year in recognition period preceded that tax year.
Work Opportunity Credit	2009 - 2010	Expands the work opportunity credit to cover unemployed veterans and disconnected youth hired in 2009 and 2010.

## Energy

Provision	In Effect	Impact
Plug-in Vehicles	After 2009 (existing credit); date of enactment-2011 (new credits)	Modifies the existing credit; adds a new 10% credit (up to \$2,500) for plug-in electric vehicles that are low-speed vehicles, motorcycles, or three-wheeled vehicles; adds a new 10% credit (up to \$4,000) for the cost of converting a motor vehicle into a qualified plug-in vehicle.
Credit for Non-business	2009 - 2010	Extends the credit through 2010, modifies the

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Energy Property		calculation of the credit, and updates the efficiency standards (effective as of the date of enactment).
Residential Energy Efficient Property	2009 - 2016	Eliminates the credit caps for solar hot water, geothermal, and wind property.
Alternative Motor Vehicle Credit	Beginning after 12/31/08	Treats the credit as a personal credit allowed against the AMT.